

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CURTIS J. WILLIAMS,

Plaintiff, No. CIV S-05-0164 JAM EFB P

VS.

R. W. SANDHAM, et al.,

Defendants. **FINDINGS AND RECOMMENDATIONS**

ORDER AND FINDINGS AND RECOMMENDATIONS

Plaintiff is a prisoner without counsel suing for alleged civil rights violations. *See* 42 S.C. § 1983. On December 7, 2010, this court issued an order relieving defendants of their obligation to file a pretrial statement and vacating the hearings on their motions to dismiss for plaintiff's failure to prosecute. Dckt. No. 129. The court further recommended that the action be dismissed for failure to prosecute and that the motions to dismiss be denied as moot. *Id.* The court's order and recommendations were based on plaintiff's failure to file his pretrial statement by the deadline provided in the district judge's September 30, 2010 order (Dckt. No. 124).

On January 6, 2010, plaintiff filed his pretrial statement along with a motion for an extension of time to object to the December 7, 2010 findings and recommendations, explaining that his near-continuous placement in administrative segregation since September 18, 2010, and consequent lack of access to his legal materials and the law library, prevented him from timely

1 filing his pretrial statement. Dckt. Nos. 131, 132.

2 Accordingly, it is hereby ORDERED that the order and findings and recommendations
3 issued on December 7, 2010 are hereby vacated. It is further RECOMMENDED that:

4 1. Defendants' motions to dismiss (Dckt. Nos. 125 and 127), both premised on plaintiff's
5 failure to file a timely pretrial statement, be denied; and

6 2. Defendants be directed to file their pretrial statement no later than 30 days after any
7 order adopting the findings and recommendations.

8 These findings and recommendations are submitted to the United States District Judge
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days after
10 being served with these findings and recommendations, any party may file written objections
11 with the court and serve a copy on all parties. Such a document should be captioned "Objections
12 to Magistrate Judge's Findings and Recommendations." Failure to file objections within the
13 specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158
14 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

15 DATED: January 19, 2011.

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17 EDMUND F. BRENNAN
18 UNITED STATES MAGISTRATE JUDGE
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